

F 536
.M64
no. 1
Copy 1

MILITARY TRACT PAPERS.

No. 1.

ILLINOIS

AN ADDRESS BY

HONORABLE JOHN P. HAND

"
JUSTICE OF THE SUPREME COURT

BEFORE THE TRUSTEES, FACULTY, AND
STUDENTS OF THE WESTERN
ILLINOIS STATE NORMAL
SCHOOL,

MONDAY, DECEMBER 3, 1906.

WITH A MAP.

ILLINOIS STATE REFORMATORY PRINT.

copy 1

F 536
M 64

34

11
June 1 - 19
K.R.



HONORABLE JOHN P. HAND

ILLINOIS.

LADIES AND GENTLEMEN:

I am pleased to meet you on this, the eighty-eighth, anniversary of the admission of Illinois as a State into the Union.

In what I shall say this evening, I will only call your attention to a few of the prominent landmarks which have been left along the highway which the people of Illinois have traveled in the building of that great State, leaving you at your leisure to fill in the details of the brief outline of its history which I shall present to you, and if I shall succeed in more fully arousing your interest in the study of the subject, I will have accomplished all I could hope to accomplish in one evening.

The discovery, early settlement and development of the State of Illinois, are attractive and inspiring subjects for study, and the young man or woman who desires to acquire a thorough knowledge of the history of that great commonwealth and is so fortunate as to be a student in an institution of learning founded and fostered by the State, where able instructors are provided and an ample library furnished, is to be congratulated.

The fourth centennial of the discovery of the Western Continent was celebrated upon Illinois soil thirteen years ago, by the civilized and semi-civilized nations of two continents, whose peoples assembled on the shores of the great lake which washes its north-eastern boundary, to pay homage to the progress made by the Anglo-Saxon race in the United States in four hundred years.

When Columbus, with his hardy band of explorers, at the close of a tempestuous voyage, knelt upon and kissed the soil of San Salvador, upon that island and upon the ad-

joining mainland he saw only evidences of savage life. The native tribes then occupying North America were wholly uncivilized and the colonization of the territory now within the limits of the United States was not attempted by civilized man for more than a century subsequent to the discovery of the Western Continent.

The North American continent was settled by the Spaniards, the English and the French. The Spaniards took possession of Mexico and Florida, the English of Virginia and New England, and the French, the country tributary to the St. Lawrence and the Great Lakes.

The Spaniards were avaricious, cruel and blood-thirsty. They overran the country in search of gold and the fountain of immortal youth, and devastation, rapine and murder stalked along their pathway. De Soto discovered the Mississippi in 1541; St. Augustine was founded in 1565, and in 1781 Spanish soldiers marched from St. Louis, the capital of Upper Louisiana, across Illinois, to the mouth of the St. Joseph river, in Michigan, where they destroyed the English fort located at that point, and then hurriedly took shelter beyond the Mississippi river, in territory controlled by Spain. The Spaniards did not permanently attach themselves to the soil, yet they laid boastful claim not only to Florida, but to the entire Mississippi valley, including the Illinois country, and at the close of the Revolutionary war joined the French in an attempt to confine the American Republic to the territory east of the Alleghany mountains, and later sought to prevent the free navigation of the Mississippi river by the inhabitants of Tennessee, Kentucky and the Northwest Territory. The power of the Spaniards in North America east of the Mississippi river was, however, soon broken, and early in the last century they awoke from their dream of conquest and abandoned their efforts to establish an empire in the Missis-

sippi valley, and the title to the vast territory over which they had marched and counter-marched, on both sides of the Mississippi river, vested in their more steadfast, English speaking neighbors, which territory has since been cut into numerous great States of the American Republic.

The English came to America, not in search of gold, but to acquire homes for themselves and their posterity, and to establish in the New World a new nation where man might worship God according to the dictates of his own conscience and enjoy civil and political liberty. They brought with them and planted upon the Atlantic Coast, the common law, the richest gift of the English people to the American Colonies, which today forms the basis of the jurisprudence of Illinois and of the other States of the Union, save one. The English people were nation builders, and while their progress westward was slow, they were destined in time to extend their language, influence, customs, laws and civilization over that vast territory which extends from the Atlantic ocean, upon the east, to the Pacific ocean, on the west; and from the Great Lakes of the north, to the Gulf of Mexico upon the south.

The French came to America to build a New France. They were not cruel, nor blood-thirsty, like the Spaniards, and instead of waging a war of extermination against the Indians, sought to proselyte them to their faith. They were not only willing to barter a blanket or a string of colored beads to their red brothers for their peltries, but they gladly accepted their hospitality and protection, and often shared their wigwams and made their daughters and sisters their wives. They did not cultivate the soil, but preferred to hunt, trap, and fish, in company with the native tribes, and at a time when the English were raising corn and cultivating tobacco along the eastern slope of the Alleghanies, they were canoeing upon the streams and penetrating the trackless for-

**The
English**

**The
French**

ests in the regions of the Great Lakes, upon whose shores their priests established missions and their merchants erected trading posts.

In May, 1673, as a result of the early occupation of the Lake country by the French Jesuit priests, hunters, traders and trappers, two young Frenchmen, Joliet, a merchant, and Marquette, a Jesuit priest, in company with five oars-men, left the mission at St. Ignace, on the Straits of Mackinac, in two boats, under a commission from the Intendant of New France, to explore the west, and, if possible, to find the Great River which it was rumored lay from the Straits toward the setting sun. They crossed Green Bay, ascended the Fox river, made the portage to the Wisconsin river and floated down its rapid current to its mouth, and on June 17th they passed out onto the broad bosom of the Father of Waters. One hundred and thirty-two years before that date, De Soto and his half-famished followers in their wanderings had stumbled upon that mighty river, hundreds of miles farther down its course, and in the waters of which that intrepid Spaniard found his grave. From the days when De Soto's men floated down the Mississippi upon rough rafts to the time of Joliet and Marquette, so far as recorded history teaches, no white man had stood upon its banks. From the mouth of the Wisconsin river, the explorers passed down the Mississippi river until they reached the mouth of the Arkansas river, from whence they retraced their steps to the mouth of the Illinois river, which they ascended and returned to the mission at Green Bay by the Des Plaines river, the Chicago portage, the Chicago river and Lake Michigan, where they arrived in the early fall.

Joliet and Marquette were the first white men to set foot upon Illinois soil. Joliet returned to New France, and the

following year Father Marquette returned to the Illinois country. He spent the winter of 1674-5 in a lodge near the mouth of the Chicago river, and with the return of spring visited the Indian villages along the Illinois river, preached to the Indians and established the first mission in Illinois. On the return trip he died, and was buried in the sands upon the south shore of Lake Michigan. The following year his remains were exhumed by Mission Indians and his bones were tenderly borne to St. Ignace, where they now rest upon the shore of the Straits he dearly loved. Father Marquette was a devout man, whose "saintly character will long remain an inspiration to men of every creed and calling."

After the discovery of the Mississippi and Illinois rivers, the ruling power in New France determined to unite so far as they could the St. Lawrence, the basin of the Great Lakes and the Mississippi valley. In 1679 it was determined to build a line of forts upon the banks and shores of these great water-ways, and La Salle, a daring Frenchman, was commissioned to repair to the Illinois country. In company with that great leader of men, Tonty, and Father Hennepin, who afterwards explored the upper Mississippi, and a number of artisans and soldiers, La Salle reached the Illinois country in January, 1680, and during that winter erected Fort Creve-coeur on the south side of the river, at the lower end of Peoria Lake. Thereafter he built Fort St. Louis, upon Starved Rock, a bold promontory projecting to the water's edge, farther up the stream. He descended the Illinois and Mississippi rivers to the Gulf of Mexico, and soon returned to France with a view to bringing out to the Illinois country a colony. On his return, by way of the Gulf of Mexico, he failed to find the mouth of the Mississippi river, and while wandering through the swamps and bayous of the South, in

LaSalle
and Tonty

a superhuman effort to extricate the colonists from the terrible situation into which he had brought them, and after he and they had endured great hardships and sufferings, he perished, within the bounds of what is now the State of Texas, by the treachery of one of his own men. "Thus in the vigor of his manhood, at the age of forty-three, died Robert Cavalier de la Salle, 'one of the greatest men,' writes Tonty, 'of this age;' without question one of the most remarkable explorers whose names live in history."

The accounts of the rich soil and abundant game abounding in the Illinois country, carried to Montreal by Joliet and La Salle, and the publication of the report of Father Marquette of the discovery of the Mississippi and Illinois rivers, encouraged a few hardy pioneers to migrate to the Illinois country, and by the year 1700 there were a number of families residing in the Mississippi valley, near the mouth of the Kaskaskia river, which was the first permanent white settlement in the Illinois country. The French subsequently founded other settlements and in 1718 commenced the building of Fort Chartres, which was located on the east side of the Mississippi river, some sixteen miles up-stream from Kaskaskia. The construction of this fort is said to have drained the treasury of France, and while it never fired a hostile shot, it was the greatest structure of its kind in America at the time it was completed in 1720. The seat of government of the Illinois country was located at Fort Chartres until it was transferred in 1772, by the English to Kaskaskia.

Fort Chartres

The French, when Fort Chartres was completed, doubtless supposed they had firmly established themselves in the Mississippi valley. The God of War, however, smiled upon the English upon the Plains of Abraham, and the French, at the treaty of Paris, 1763, ceded to England all her possessions in America east of the Mississippi river, except the Isle of

Orleans, and the Illinois country was lost to France. In 1765, Fort Chartres was taken possession of on behalf of the English by Captain Sterling and a company of Highlanders, and with its transfer English civilization permanently supplanted that of France in the Illinois country.

From the treaty of Paris, in 1763, to the signing of the Declaration of Independence, in 1776, but little progress was made in the Illinois country. The British did not encourage its permanent settlement, but sought to occupy the country as a vast game preserve for the benefit of the Indian, and in October, 1763, to effect that purpose, a proclamation was issued in the name of King George, which declared "it to be our royal will and pleasure * * * to reserve under our sovereignty, protection and dominion, for the use of the said Indians * * * all the lands and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north-west, * * * and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license," but "despite this attempt to obstruct the tide of western settlement," the North-west was soon to be occupied by men from east of the Alleghanies who were pouring through the mountain passes into Kentucky and Tennessee.

At this epoch in the settlement of the Illinois country, there appeared upon the stage of action, a young Virginian, who was the counterpart of Washington in many particulars and who has been called the "Washington of the North-west." He was fairly well educated, was a surveyor by occupation, and an Indian fighter of renown, having served with great credit in Lord Dunmore's and other Indian wars. In 1777, the Indians north and west of the Ohio river, were being in-

George
Rogers
Clark

cited by the English to attack the settlers in Kentucky and Tennessee, and our young hero, then in Kentucky, immediately repaired to Virginia to confer with Patrick Henry, the then governor of that State, relative to the defense of the northwest border. He advocated the carrying of the war into the heart of the Indian country. He represented to Governor Henry that the forts lately surrendered by the French to the English were poorly manned and provisioned, and that the French inhabitants of the Illinois country were not friendly or loyal to the English and that by prompt action he was of the opinion the Illinois country could be wrested from the British, and the Indians defeated and dispersed. He so impressed the great Virginian with his views that he was granted \$6,000 in currency and authorized to organize an expedition against the posts north of the Ohio, in the name of Virginia. He rendezvoused his army at Red-stone, and on May 12, 1779, with two hundred and fifty men, broke camp, destined for the Illinois country. He obtained supplies for the expedition at Pittsburg, and then his little army dropped down the Ohio river, on flat boats, to what is now Corn Island. He left the Ohio river at Fort Massac and started across the country, one hundred twenty miles, for Kaskaskia, with no provisions other than parched Indian corn, which his men carried in their haversacks. He arrived at Kaskaskia July fourth, the anniversary of the signing of the Declaration of Independence, and surprised and captured the garrison. He remained at Kaskaskia and Cahokia until the month of February, 1779, when with one hundred seventy men, mid flood and frost and without a commissary, he made one of the most wonderful winter campaigns on record, from Kaskaskia to Vincennes, on the Wabash river, a distance of two hundred twenty miles, and

after an attack captured Fort Sackville with its commanding officer, General Hamilton, and its entire garrison, and all its military supplies. With the capture of General Hamilton and his army, all the northwest territory south of Detroit, passed under the control of the State of Virginia and was governed by that State as the County of Illinois, until the State ceded her claim in the Northwest Territory to the United States in 1784.

Capture of
Fort Sackville

The topography of the country was so little known at the time the original grants were made by England to the several colonies that these grants often were conflicting and contradictory, and in many instances highly extravagant. The consequences were that immediately after the colonies broke away from the mother country, conflicting claims to the unsettled territory lying west of the Alleghany mountains were set up by the several colonies, which, after independence had been established, threatened the formation of a permanent union. Impoverished as the States then were and overburdened with debts created for the general good of the whole country, it was claimed by many that the vacant lands which were so unevenly distributed originally, ought to be made a common fund for defraying the expenses of the revolutionary war, and Congress made successfully an appeal to the patriotism and magnanimity of the favored States to cede their respective claims in the public domain to the United States goverment. New York and Virginia led the way, and their examples were followed, at successive intervals, by all of the other States claiming lands situated west of the Alleghanies. By these cessions the United States derived title to all that portion of the public domain lying north of Florida and east of the Mississippi river. Thus was a source of irritation between the original States removed, and the title to the public domain vested in the United States. By the cession

of Virginia of her interest in the lands situated in the North-west Territory, the titles acquired by purchasers of the public lands in Illinois were rendered free from doubt.

General Clark, at the time of the conquest of the North-west Territory, was twenty-five years of age, of strong frame, of great courage, and possessed of "unbridled passions." His soldiers were men of desperate courage, who fully realized they were fighting to protect their homes and their wives and children from the torch and tomahawk of the merciless savage. It is difficult at this date to estimate the importance of the victories won by General Clark in the Northwest. Suffice it to say that he and his backwoodsmen captured the Illinois country alone, from the English and Indians, and maintained their hold upon it until the close of the Revolutionary war and made it possible for the representatives of the United States at Paris, in 1783, to establish the western boundary of the United States at the Mississippi river, instead of at the crest of the Alleghany mountains.

The Ordinance of 1787, passed by Congress for the government of the North-west Territory, has been characterized as a second Declaration of Independence. It was indeed a charter of liberty. The first governor of the Northwest Territory was General St. Clair. May 7, 1800, the Northwest Territory was divided, the territory west of a line drawn north from a point on the Ohio river opposite the mouth of the Kentucky river to Fort Recovery, and thence to the Canadian line, was created into the Territory of Indiana, with General Harrison as its first governor, and the territory east of that line was admitted into the Union as the State of Ohio, on February 19, 1803. And on February 3, 1809, that portion of the Territory of Indiana lying west of the lower Wabash river and the meridian of Vincennes was erected into the Territory of Illinois with Ninian Edwards as

its first governor, and nine years later, December 3, 1818, Illinois was admitted into the Union, a State, with all the rights and privileges of the original States.

The Ordinance of 1787 provided that there should be erected out of the North-west Territory not less than three nor more than five States, and that the northern boundary of the State occupying the present geographical position of the State of Illinois should be an east and west line drawn through the southerly bend or extreme of Lake Michigan. While the bill for an enabling act was before the Committee of the Whole, in Congress, upon the motion of Judge Pope, Illinois' delegate in Congress, the act was so amended as to establish the northern boundary of the present State of Illinois, at $42^{\circ} 30'$. The amendment of Judge Pope carried the northern line of the State sixty-one miles north of the line fixed by the Ordinance of 1787, and gave to the State 8,500 square miles of territory now comprising the fourteen northern counties of the State. The change in the northern boundary thus made, was of great importance to the State of Illinois and the entire country. Had the line fixed by the Ordinance of 1787 been established as the State's northern boundary, the State would have been excluded from a participation in the commerce of the Great Lakes, and the city of Chicago, the eastern terminus of the Illinois and Michigan canal, and the northern terminus of the Illinois Central Railroad which traverses the State from north to south, would have been in the State of Wisconsin, and several of the great railroads which cross northern Illinois from east to west, would be located north of the State line of Illinois; and, as all the great rivers of the State flow into the Mississippi River, and thence to the Gulf, the commerce of the State, in its incipiency, would have found an outlet by way of New

Nathaniel
Pope and the
Northern
Boundary Line

Orleans, instead of through Chicago. As a result of this, Illinois' interests would have been with the South, instead of the North, during the War of the Rebellion, and the contending armies for and against the Union might have met in armed conflict upon the soil of Illinois, instead of that of Kentucky and Missouri, in the early days of that war, and the heavy vote of the northern counties which made possible the election of a Republican governor in 1856 and gave Abraham Lincoln the State in 1860, as against Stephen A. Douglas, would not have been cast in Illinois, and the thousands of loyal men who went out in defense of the Union when its life was assailed in 1861, from the northern counties of the State, would have marched and fought under the banner of another State, and Illinois would not have been, as she is to-day, the Empire State of the Mississippi Valley, and many of those present to-night would have been citizens of Wisconsin instead of citizens of Illinois. The State of Illinois, as well as the entire nation, owes a debt of deep gratitude to Judge Pope and his compeers, who had the wisdom and foresight to bring the State of Illinois into the Union in its present form, rather than in the form in which it was carved out by the ordinance of 1787.

While there are many bright pages of Illinois History, there are some dark ones. In 1720, one hundred years after the first cargo of negro slaves was landed at Jamestown, there was landed at St. Philip, near Kaskaskia, by Philip Francis Renault, a cargo of five hundred negro slaves from San Domingo, which he afterward sold to the inhabitants of the Illinois country. Thus was slavery established in the Northwest Territory, and it was not eradicated from the State of Illinois for more than one hundred and twenty-five years, and its baleful influence was felt within the borders of the State for a much longer time.

At the time of the cession of the Illinois country to England by the French, it is estimated there were three thousand inhabitants in the Northwest Territory, nine hundred of whom were negro slaves. Many of the French, with their slaves, shortly after the Treaty of Paris, moved beyond the Mississippi river, and the population north and west of the Ohio river had decreased in 1770 to sixteen hundred, of whom six hundred were negro slaves. There were no restrictions imposed upon the holding of slaves in the Northwest Territory by England or Virginia, and prior to the passage of the Ordinance of 1787 negro servitude was thought by its friends to be firmly established in the Northwest Territory. By article VI of that ordinance it was provided: "There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted." This provision, prohibiting slavery in the Northwest Territory, found in the Ordinance of 1787, shows that the view, at that time, in Congress, was that slavery might be excluded by Congress from the territories of the United States, which view was subsequently repudiated by Senator Douglas and others, at the time of the repeal of the Missouri Compromise in 1854. The insertion of article VI in the Ordinance of 1787, caused great uneasiness among the slave-holders residing in the Northwest Territory. Governor St. Clair, and subsequently Governor Harrison, took the position, however, that the ordinance should be given a prospective effect, and that it did not affect the status of slaves held in the Northwest Territory prior to 1787, and that view was apparently acquiesced in by the people and the courts in the territory for many years. That construction of the ordinance, did not permit the bringing of slaves into the Northwest Territory from

the slave States, and, to encourage the immigration of slave-holders with their slaves from the States south and east of the Ohio river, a system of "voluntary servitude" was created in the Northwest Territory. Under the voluntary system, the slave was indentured to his master, males until they were thirty-five years, and females until they were thirty-two years of age, and the children born to persons of color during their period of service might be indentured to service, the boys until they were thirty years, and the girls until they were twenty-eight years of age, and unless slaves were indentured within thirty days after they were brought into the territory, they could be removed from the territory. The legality of this system of voluntary servitude was recognized by a statute of the Indiana territory, passed in 1807, which was subsequently in force in the Illinois territory.

At the time the Territory of Illinois was organized, there were found therein French negro slaves, indentured negro slaves, and free negroes. In the convention which framed the Constitution of 1818, there were three classes of delegates, those opposed to negro slavery in any form, those in favor of negro slavery in its absolute form, and those who favored a middle course, that is, the voluntary system. The conservatives incorporated into that instrument their view, and while it was provided that "slavery or involuntary servitude" should not thereafter be introduced into this State otherwise than for the punishment of crimes, the voluntary system was fully recognized. Although the constitution of 1818 barred slavery from the State in the future, it was contended it did not confer freedom upon the French negro slaves who were in the territory prior to the admission of the State into the Union, and although the term of service for which the black man was permitted to indenture himself was

shortened to one year, and the children of these indentured slaves could not be indentured for a longer period than, the boys, until they arrived at the age of twenty-one years, and the girls at the age of eighteen years, it did not affect the terms of service of the indentured slaves themselves then under contract of service, and the State legislature at its first session after the admission of the State into the Union, re-enacted with all their severity, the "Black Laws," which had been in force in the territory. These laws were largely copied from the slave codes of Kentucky and Virginia, and under them the negro, free or slave, was practically without protection. If free, unless he could present a certificate of freedom from a court of record, he was liable to arrest and imprisonment and to be sold to service by the sheriff of the county for a period of one year; or, if he sought employment, he was in constant danger of being kidnapped by the desperadoes who infested the country, and sold down the river. If a slave, indentured or otherwise, he could not bring a suit or testify in court; if found from home, he was whipped; he might be sold upon execution or mortgaged, to pay or secure his master's debt, and in case of his master's death he passed to his master's administrator or executor, along with his horses and mules. The "Black Laws" were passed and administered with a view to force all the negroes in Illinois, other than the French negro slaves, into the voluntary system. The French negro slave and the indentured slave had a master and a home; the free negro in Illinois was an outcast. The settled portions of Illinois in 1820 bordered upon the States of Kentucky and Missouri, and the slave-holder from Kentucky, with his horses, mules, cattle and drove of slaves, passing through Illinois to Missouri, often remarked that he regretted Illinois was not a slave

The Black
Laws

State, as he would if it were a slave State, settle upon its fertile prairies with his slaves. Money was scarce and the times were hard, and a cry went up from all over Southern Illinois that a great mistake had been made in bringing Illinois into the Union as a free State and that a convention should be called to change the Constitution of the State upon the slavery question. There was great excitement on the slavery question at the election in the fall of 1822. Hon. Edward Coles, a strong anti-slavery man, was elected governor, but the legislature was pro-slavery, and at the session of 1823, after unseating an anti-slavery member to give the pro-slavery men the required number of votes, a law was passed providing for submitting the question of the calling of a convention to revise the Constitution to a vote of the people. The vote was had on the second of August, 1824, and the proposition for the Convention was defeated by a majority of 1,668 votes out of a total vote of 11,612, and Illinois remained a free State. The contest of 1824, over the calling of a convention to revise the Constitution of Illinois, was the most bitter political contest ever waged in the history of the State. It was but a fore-runner of the resort to arms which drenched the country in blood thirty-seven years later.

In 1837 Elijah P. Lovejoy was murdered by a pro-slavery mob at Alton, and the State was shaken from center to circumference by the agitation of the slavery question. At about that time, cases involving the status of the negro in Illinois commenced to find their way into the courts, and numerous cases in time reached the Supreme Court. In 1839 a case was brought by the administrators of Nathan Cromwell against David Bailey in the circuit court of Tazewell county, upon a promissory note made to Cromwell in his life-

time, for the purchase of a negro girl named Nance, sold by Cromwell to Bailey. The plaintiff was represented by Judge Stephen T. Logan, and the defendant by Abraham Lincoln. Judgment was rendered upon the note by Judge William Thomas, who presided at the trial, in favor of the plaintiff for \$431.97. The defendant appealed the case to the Supreme Court, where it was contended the note was without consideration and void, as it was given as the purchase price of a human being who the evidence showed was free and therefore not the subject of sale. The Supreme Court reversed the trial court. The opinion being written by Judge Breese (3 Scam. 71,) who held, contrary to the established rule in many of the southern States, that the presumption in Illinois was that a negro was free and not the subject of sale. This case established a great principle in the jurisprudence of our State. Under the old rule the burden was upon the negro to establish he was free, as the presumption obtained that a black man was a slave. Under the rule established in this case, the presumption obtained that a black man was free, and the person who asserted he was a slave was required to bring forward his proof, which often he could not do. The early reported cases, it is sometimes said, often seem to reflect pro-slavery views, but after the case of *Bailey v Cromwell* we think that cannot be truthfully said.

In 1845 the great case of *Jarrot v Jarrot*, (2 Gilm. 1,) was decided, which was an action of assumpsit by the descendant of a French negro slave, against his master, for wages. The negro was defeated in the court below, and the case was reversed by the Supreme Court. Separate opinions were filed by Justices Scates and Young. The opinion by Judge Young contains an exhaustive review of the legal history of slavery in all its phases in the State of Illinois, and

Opinion of
Judge Breese

Judge Young's
Opinion

the judgment rendered in that case sounded the death knell of the institution of human slavery in Illinois. The court held article VI of the Ordinance of 1787 was a valid enactment, and, contrary to the view expressed by Governors St. Clair and Harrison and acted upon by the people and the lower courts for many years, it was held to be retroactive in its operation,—that is, that it applied to all negro slaves in the Northwest Territory at the time of its passage. The effect of this decision was to liberate all the French negro slaves and their children in Illinois from the bondage in which they had been illegally held for fifty-eight years.

The Constitution of 1848 provided that the General Assembly should pass such laws as might be necessary to effectually prevent free negroes from permanently settling in this State and to prevent owners of slaves from bringing them into the State for the purpose of setting them free. On February 12, 1853, a statute was passed by the legislature which provided that any negro or mulatto, bond or free, who should come into the State and remain in the State for the period of ten days, with a view to permanently settle in the State, should be deemed guilty of a misdemeanor, and, upon conviction, in case he failed to pay the fine imposed upon him, he should be sold at public auction to any person who would pay the fine and costs for the shortest period of his service. On the 25th of February, 1862, a mulatto named Nelson was arrested and carried before a justice of the peace in Hancock county, and convicted of a violation of this statute. An appeal was prosecuted to the circuit court of that county, and a change of venue was later granted to the circuit court of Adams county, where the defendant was again convicted. The case was carried by writ of error to the Supreme Court, where, in 1864 (33 Ill. 390,) the statute

**The Nelson
Case**

was held constitutional and the judgment of conviction was affirmed, on the ground that the sale of a negro under the statute for a failure to pay the fine and costs adjudged against him, did not reduce him to a state of slavery, but was a mode of punishment upon a conviction of crime authorized by the Constitution. Thus, although slavery did not exist, even in form, in Illinois, subsequent to 1845, in 1864, and after the Emancipation Proclamation had been issued and just at the close of the War of the Rebellion, by virtue of the Constitution of 1848 and the Act of 1853 it was held unlawful for a free black man to acquire a permanent home in Illinois. This case was the last case decided by the Supreme Court of Illinois bearing upon the slavery question or the status of the colored man in Illinois, prior to the amendments to the Constitution of the United States adopted subsequent to 1864. In 1865 the legislature repealed the "Black Laws" of 1819 and the equally oppressive Statute of 1853, and the principles of the Declaration of Independence, penned by the immortal Jefferson, that "All men are created equal; that they are endowed by their Creator with certain unalienable Rights; that among these are Life, Liberty, and the pursuit of Happiness," then went into force, not only in theory but in fact, in the State of Illinois.

From the earliest settlement of the State, and especially subsequent to the admission of Missouri as a slave State, many runaway negroes from Kentucky and Missouri found their way into Illinois, and, as they fled in the darkness, over the prairies of the State guided only by the North star towards Canada and freedom, they were pursued by the slave catcher with the instinct and tenacity of the blood hound, and while pro-slavery men assisted the slave hunter

to run down and re-capture runaway slaves, the anti-slavery men of the State sympathized with and assisted these black men in their flight toward the land of freedom. and in some way, which is not now easily understood, during this period were constructed across the State of Illinois, three great "underground railway" lines, with their termini upon the Mississippi river and Lake Michigan. One line started at Chester, another at Alton, and a third at Quincy, on the Mississippi river. The Quincy line passed substantially over the same route from Quincy to Chicago, now daily traversed by the trains of the Chicago, Burlington and Quincy Railway Company. There were stations at Galesburg in Knox county, at Wethersfield in Henry county, and at Princeton in Bureau county. This railway did not run palace sleepers, or even smokers. It carried, however, hundreds of black men, black women, and black children, from bondage to freedom. The engineers, conductors, brakemen and station agents upon these lines were God-fearing men who had the courage of their convictions, and, if occasion required, did not hesitate, when upon duty, to use force to protect their passengers from the interference of slave owners and slave catchers, whom they loathed and despised. The men who were thus engaged in assisting negro slaves to escape from bondage violated the statute law of both the State and the Nation. This they knew, but they justified their action by an appeal to the "higher law."

The military history of Illinois is no less interesting than its civil and political history, and when it shall be fully written, will contain honorable mention of La Salle and Tonty of the French period, George Rogers Clark and his backwoods rifle men of Revolutionary fame, General Reynolds and his rangers of the War of 1812, General Henry

and the Illinois militia of the Black Hawk war, and Hardin, Baker, Shields and others of the Mexican war. That history will, however, deal largely with the war for the preservation of the Union and the overthrow of human slavery. In that great struggle Illinois sent out, in defense of the flag more than two hundred fifty thousand of her loyal sons, and it has the proud distinction of having been the home of John A. Logan, Ulysses S. Grant and Abraham Lincoln, the three greatest characters developed during that period.

"Not without thy wondrous story,
Illinois, Illinois,
Can be writ the Nation's glory,
Illinois, Illinois.
On the record of thy years
Abraham Lincoln's name appears,
Grant and Logan and our tears,
Illinois, Illinois."

The "Military Tract."

The military tract bounty lands are situated between the Illinois and Mississippi rivers. From the confluence of the streams to the northern line of surveys is a distance of 162 miles. 72 miles north of the place of beginning the 4th principal meridian touches the base line, which runs thence west to the Mississippi river. The military bounty lands extend 90 miles north of the base line. The northern boundary of Mercer county continued east to the Illinois river marks the northern boundary of what is popularly known as the Military Tract. The territory thus described includes Calhoun, Pike, Adams, Brown, Schuyler, Hancock, McDonough, Fulton, Henderson, Warren, Knox, Peoria, Stark and Mercer counties, and parts of Henry, Bureau, Putnam, and Marshall counties. It comprises 5,360,000 acres, more or less, 3,500,000 acres of which were appropriated as bounties in quarter-section lots to the non-commissioned officers and men who volunteered their services in the War of 1812.

LIBRARY OF CONGRESS



0 014 753 157 6